IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr. Appeal No.161 Of 2000.

Date of decision: August 13, 2007.

Hem Raj. …. Appellant.

Vs.

Nirmala Devi and others. …. Respondents.

Coram

The Hon'ble Mr.Justice Surinder Singh, Judge.

Whether approved for reporting? No.

For the Appellant: Mr.R.K. Gautam,Sr. Advocate, with Mr. Naveen Bhardwaj, Advocate.

For the respondents: Mr. Naresh Kumar Thakur, Advocate.

Surinder Singh, J (oral):

The appellant is felt aggrieved by and dissatisfied with the judgment of the trial court, whereby his complaint filed under Section 500 of the Indian Penal Code was dismissed against the respondents.

In brief, the complaint has alleged that all the respondents except respondent Rabir Singh, Secretary of the Gram Panchayat, being the members of the Gram Panchayat of Sloh Berri had passed a Resolution No.4 on 10.2.1997(Ext.CW1/B) alleging that the appellant had disturbed the peace and tranquility in the village. Its copy was sent to the Deputy Commissioner, requesting him to direct the police post Daulatpur, not to entertain his complaint in any manner and the complainant came to know on 11.2.1997 from one Lekh Ram that a copy of the said resolution was pasted on the

---

Whether reporters of local Papers may be allowed to see the judgment? Yes.

gate of Panchayat Ghar as a public notice. Therefore, he alongwith said Lekh Ram visited the Panchayat Ghar and on seeing the copy pasted on the gate, felt humiliated as the resolution was false, which has lowered down his prestige in the eyes of general public. Accordingly, sought action against the respondents.

After recording the preliminary evidence, the learned trial court found a prima facie case to proceed against the respondents under Section 500 of the Indian Penal Code and all the respondents were summoned, including said Panchayat Secretary Shri Ranbir Singh. Thereafter, the pre-charge evidence was also led and the charge was accordingly framed under Section 500 of the Indian Penal Code.

The complaint examined the witnesses to support his version and the respondents were also examined under Section313 of the Code of Criminal procedure. The circumstances which were found attendant were denied by them, however, no defence was led.

While appreciating the evidence on record, the respondents were acquitted by the learned trial court, on the ground that the evidence of the complainant was full of contradictions and further that the resolution Ext.CW1/B was withdrawn by another resolution Ext.CW1/A by the then Pradhan. It was also held that the accused Ranbir Singh was the Secretary of the Panchayat and he was not responsible for passing of such resolution in any manner. The complainant has filed an appeal on the ground that the learned trial court did not appreciate the evidence on record in the right perspective.

I have heard Shri R.K. Gautam, learned Senior Advocate duly assisted by Mr. Naveen Bhardwaj, learned Advocate for the

appellant and Shri N.K.Thakur, learned Advocate, for the respondents and reappraised the evidence.

On re-examination of the evidence, I found an astonishing fact that the Secretary of the Panchayat was an accused before the trial court, in the pre-charge evidence, he was examined as a witness for the complainant but no one had objected to it. However, while taking the ground for acquittal as recorded by the learned trial court as having been born out from the record, I have also found that there is not even an iota of evidence to show that the said resolution was pasted by any of the respondents on the gate of the Panchayat Ghar or there was any intention of any of the respondents to malign the reputation of the complainant. The complainant has not produced either the Station House Officer to whom the resolution was addressed or the official of the office of the Deputy Commissioner, to whom the copy thereof was endorsed to substantiate the fact of receiving such a resolution. Regarding evidence qua pasting of the resolution, by the respondents, on the notice board of the Gram Panchayat is also not proved.

In view of the aforesaid facts, I do not find that the view taken by the learned trial court for acquitting the respondents was perverse. Accordingly, the appeal is dismissed.

The respondent is hereby discharged of his bail bonds, entered upon at any time during the proceedings of this case. The matter stands accordingly disposed of.

August 13, 2007.
(PDS)

(Surinder Singh)
Judge.